

§714.2

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aggregate the production quantities of all plants on the plant site that produced the Schedule 3 chemical in amounts greater than 30 metric tons. Do not aggregate amounts of production from plants on the plant site that did not individually produce a Schedule 3 chemical in amounts greater than 30 metric tons. You must complete a separate Form 3-3 for each Schedule 3 chemical for which production at your plant site exceeds 30 metric tons.

(2) *Rounding.* To determine the production range into which your plant site falls, add all the production of the declared Schedule 3 chemical during the calendar year from all plants on your plant site that produced the Schedule 3 chemical in amounts exceeding 30 metric tons, and round to the nearest ten metric tons.

(d) *“Declared” Schedule 3 plant site.* A plant site that submitted a declaration pursuant to paragraph (a)(1) of this section is a “declared” Schedule 3 plant site.

(e) *Routine inspections of declared Schedule 3 plant sites.* A “declared” Schedule 3 plant site is subject to routine inspection by the Organization for the Prohibition of Chemical Weapons (see part 716 of the CWC) if:

(1) The declared plants on your plant site produced in excess of 200 metric tons aggregate of any Schedule 3 chemical during the previous calendar year; or

(2) You anticipate that the declared plants on your plant site will produce in excess of 200 metric tons aggregate of any Schedule 3 chemical during the next calendar year.

§714.2 Annual reporting requirements for exports and imports in excess of 30 metric tons of Schedule 3 chemicals.

(a) Any person subject to the CWC that exported from or imported into the United States in excess of 30 metric tons of any single Schedule 3 chemical during the previous calendar year has a reporting requirement under this section.

(1) *Annual report on exports and imports.* Declared plant sites, undeclared plant sites, trading companies, or any other person subject to the CWC that exported from or imported into the

United States in excess of 30 metric tons of any single Schedule 3 chemical during the previous calendar year must submit an annual report on exports and imports.

NOTE 1 TO §714.2(a)(1): Declared and undeclared plant sites must count, for reporting purposes, all exports from and imports to the entire plant site, not only from or to individual plants on the plant site.

NOTE 2 TO §714.2(a)(1): The U.S. Government will not submit to the OPCW company-specific information relating to the export or import of Schedule 3 chemicals contained in reports. The U.S. Government will add all export and import information contained in reports to establish the U.S. national aggregate declaration on exports and imports.

(2) *Mixtures containing a Schedule 3 chemical.* The quantity of a Schedule 3 chemical contained in a mixture must be counted for reporting an export or import only if the concentration of the Schedule 3 chemical in the mixture is 80% or more by volume or by weight, whichever yields the lesser percent. For reporting purposes, only count the weight of the Schedule 3 chemical in the mixture, not the entire weight of the mixture.

NOTE TO §714.2(a)(2): The “80% and above” mixtures rule applies only for reporting purposes. This rule does not apply for purposes of determining whether the export of your mixture to a non-State Party requires an End-Use Certificate or for determining whether you need an export license from BIS (see 15 CFR 742.2, 742.18 and 745.2 of the Export Administration Regulations) or from the Department of State (see the International Traffic in Arms Regulations (22 CFR parts 120 through 130)).

(b) *Types of forms to be used.*—(1) *Declared Schedule 3 plant sites.* (i) If your plant site is declared for production of a Schedule 3 chemical (and has completed questions 3-3.1 and 3-3.2 on Form 3-3) and you also exported from or imported to your plant site in excess of 30 metric tons of that same Schedule 3 chemical, you must report the export or import by either:

(A) Completing question 3-3.3 on Form 3-3 on your declaration for that same Schedule 3 chemical; or

(B) Submitting, separately from your declaration, a Certification Form, Form 3-1, and a Form 3-3 for each Schedule 3 chemical to be reported, completing only question 3-3.3. Attach

Form A, as appropriate; Form B is optional.

(ii) If your plant site is declared for production of a Schedule 3 chemical and you exported or imported in excess of 30 metric tons of a different Schedule 3 chemical, you must report the export or import by either:

(A) Submitting, along with your declaration, a Form 3-3 for each Schedule 3 chemical to be reported, completing only question 3-3.3. Attach Form A, as appropriate; Form B is optional; or

(B) Submitting, separately from your declaration, a Certification Form, Form 3-1 and a Form 3.3 for each Schedule 3 chemical to be reported, completing only question 3-3.3. Attach Form A, as appropriate; Form B is optional.

(2) If you are an undeclared plant site, a trading company, or any other person subject to the CWCR, you must submit a Certification Form, Form 3-1, and a Form 3-3 for each Schedule 3 chemical to be reported, completing only question 3-3.3. Attach Form A, as appropriate; Form B is optional.

(c) *Quantities to be reported*—(1) *Calculations*. If you exported from or imported to your plant site or trading company more than 30 metric tons of a Schedule 3 chemical in the previous calendar year, you must report all exports and imports of that chemical by country of destination or country of origin, respectively, and indicate the total amount exported to or imported from each country.

(2) *Rounding*. For purposes of reporting exports and imports of a Schedule 3 chemical, you must total all exports and imports per calendar year per recipient or source and then round to the nearest 0.1 metric tons.

NOTE TO § 714.2(c): Under the Convention, the United States is obligated to provide the OPCW a national aggregate annual declaration of the quantities of each Schedule 3 chemical exported and imported, with a quantitative breakdown for each country or destination involved. The U.S. Government will *not* submit your company-specific information relating to the export or import of a Schedule 3 chemical reported under this § 714.2. The U.S. Government will add all export and import information submitted by various facilities under this section to produce a national aggregate annual declaration of destination-by-destination trade for each Schedule 3 chemical.

§ 714.3 Advance declaration requirements for additionally planned production of Schedule 3 chemicals.

(a) *Declaration requirements*. (1) You must declare additionally planned production of Schedule 3 chemicals after the annual declaration on anticipated activities for the next calendar year has been delivered to BIS if:

(i) You plan that a previously undeclared plant on your plant site under § 714.1(a)(1)(ii) of the CWCR will produce a Schedule 3 chemical above the declaration threshold;

(ii) You plan to produce at a plant declared under § 714.1(a)(1)(ii) of the CWCR an additional Schedule 3 chemical above the declaration threshold;

(iii) You plan to increase the production of a Schedule 3 chemical by declared plants on your plant site from the amount exceeding the applicable declaration threshold to an amount exceeding the applicable inspection threshold (see § 716.1(b)(3) of the CWCR); or

(iv) You plan to increase the aggregate production of a Schedule 3 chemical at a declared plant site to an amount above the upper limit of the range previously declared under § 714.1(a)(1)(ii) of the CWCR.

(2) If you must submit a declaration on additionally planned activities because you plan to engage in any of the activities listed in paragraphs (a)(1)(i) through (iv) of this section, you also should declare any changes to the anticipated purposes of production or product group codes. You do not have to submit a declaration on additionally planned activities if you are only changing your purposes of production or product group codes.

(b) *Declaration forms to be used*. If you are required to declare additionally planned activities pursuant to paragraph (a) of this section, you must complete the Certification Form and Forms 3-1, 3-2, and 3-3 as appropriate. Such forms are due to BIS at least 15 days in advance of the beginning of the additional or new activity.

§ 714.4 Amended declaration or report.

In order for BIS to maintain accurate information on previously submitted